

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM

Section 7, Rito de Tierra Amarilla
Subsection

**ORDER MAKING FINAL DETERMINATION OF
PRIORITY DATES IN THE RITO DE TIERRA AMARILLA SUBSECTION
OF SECTION 7 OF THE RIO CHAMA STREAM SYSTEM**

THIS MATTER is before the Court on the Motion of the Plaintiff State of New Mexico, *ex rel.*, State Engineer for Order Making Final Determination of Priority Dates in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System (“Tierra Amarilla Subsection”) filed March 23, 2011 (Docket No. 10,009).

The Court, having reviewed the Motion, pertinent portions of the record and the law, and being otherwise fully advised in the premises finds the Motion to be well-taken, and that it should be GRANTED. Further, the Court FINDS that:

Each of the individual subfile defendants in the Tierra Amarilla Subsection, the community ditches in the Tierra Amarilla Subsection and the United States of America have been served with the Court’s Notice and Order to Show Cause in connection with the proposed determination of priority dates in the Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System.

The Court’s Notice and Order to Show Cause has been published in the Rio Grande Sun once

each week for 4 consecutive weeks, the first publication being on the 3rd day of June 2010 and the last publication being on 24th day of June 2010.

Notice of the proposed determination of priority dates and irrigation water requirements in the Tierra Amarilla Subsection has been provided to all claimants, known and unknown, who may claim or have a right to use the surface waters of the Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System.

The Court's Notice and Order to Show Cause required all claimants who disagree with the State's proposed determinations of the priority date of their water rights and irrigation water requirements to file an objection by July 31, 2010.

Objections to the State's proposed determination of priority dates in the Tierra Amarilla Subsection filed by Colomex Oil and Gas Co. and Lionel Martinez (Nos. 9930, 9914) were dismissed by Order filed January 5, 2011 (No. 9993). No other objections to the State's proposed determination of priority dates in the Tierra Amarilla Subsection were filed with the Court.

Objections to the State's proposed determination of irrigation water requirements in the Tierra Amarilla Subsection (Nos. 9922, 9929) will be addressed separately and at a later date in these proceedings.

There is no just reason for delay of the entry of a final judgment as to priority dates for surface water irrigation use in the Tierra Amarilla Subsection, and the Court enters this Order as a final judgment as to the priority dates of the water rights described herein. This final judgment precludes all persons¹, known and unknown, who claim a right to use the surface or underground waters of the Rito de Tierra Amarilla Subsection from making any and all objections to the priority dates and

¹With the exception of those who timely filed objections to irrigation water requirements (Nos. 9922, 9929)

irrigation water requirements described herein during future *inter se* proceedings.

IT IS THEREFORE ORDERED that the priority dates of the community and private ditches in the Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System, and all individual irrigation water rights served by those ditches, are as set forth below:

DITCH	PRIORITY DATE
Ismael Ulibarri Ditch	1870
Sena Ditch	1870
Nutritas Ditch No. 1	1870
Unnamed Ditch No. 1	1870
Lujan Ditch	1870
Labrier Ditch	1870
Nutritas Ditch No. 2	1861
Tierra Amarilla Community Ditch	1861
Trujillo Ditch	1887
Manzanares Ditch	1887
Unnamed Ditch No. 2	1887
Briggs Ditch	1887

IT IS FURTHER ORDERED that the priority dates in individual subfile orders in the Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System are adjudicated as follows:

A. All individual subfile orders entered by the Court for surface water irrigation use in the Tierra Amarilla Subsection are amended to incorporate in the description of water rights the priority dates described above, as summarized and set forth in the Appendix attached hereto.

B. Any diversion and use of the waters of the Rio Chama Stream System in the Tierra Amarilla Subsection of Section 7 by any defendant except in strict accordance with the water rights described herein is prohibited.

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BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:

Vickie L. Gabin

SPECIAL MASTER VICKIE L. GABIN